

DEF

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on December 11, 2008.

Present - Hon. Angela M. Mazzarelli, Justice Presiding,
 Richard T. Andrias
 John W. Sweeny, Jr.
 James M. McGuire
 Dianne T. Renwick, Justices.

FILED

DEC 11 2008

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 In the Matter of Edward D. Fagan
 (admitted as Edward Davis Fagan),
 an attorney and counselor-at-law:

**Appellate Division, Supreme Court
 First Dept.**

Departmental Disciplinary Committee
 for the First Judicial Department,
 Petitioner,

M-2732
 M-3148
 M-3193

Edward D. Fagan,
 (OCA Atty. Reg. No. 2184505),
 Respondent.

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An unpublished order of this Court having been entered on April 2, 2007 (M-6486), finding respondent (who, as Edward Davis Fagan, was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the Third Judicial Department on February 23, 1988) guilty of professional misconduct in violation of DR 1-102(A) (4), (5) and (7); DR 5-103(A) (2) and (5); and DR 7-106(A) and (c) (7) of the Lawyers' Code of Professional Responsibility, and remanding the proceeding to the Committee for the appointment of a Hearing Panel solely to consider evidence in mitigation or aggravation, if any, and to recommend an appropriate sanction to be imposed upon respondent,

And an order of this Court having been entered on June 17, 2008 (M-2602), inter alia, denying respondent's motion to vacate the aforesaid unpublished order of this Court,

And the Departmental Disciplinary Committee for the First Judicial Department, by Alan W. Friedberg, its Chief Counsel (Mady J. Edelstein, of counsel) having submitted a petition and a memorandum of law to this Court on July 14, 2008, seeking an order pursuant to 22 NYCRR 603.4(d) and 605.15(e) (1) confirming the Recommendation of the Hearing Panel that respondent be disbarred from the practice of law in the State of New York,

December 11, 2008

And respondent pro se having cross moved for, inter alia, an order disqualifying the Hearing Panel and directing petitioner to appoint a new Hearing Panel (M-3148) and, by separate cross motion, for an order compelling the petitioner to provide respondent with a copy of the entire record of the proceedings and for an enlargement of time in which to respond to the petition, and related relief (M-3193),

And the Committee having interposed affirmations in opposition to the respective cross motions and in further support of the petition,

And respondent having submitted a declaration and supplemental declarations in response to the petition and in reply on the cross motions,

Now, upon reading and filing the papers with respect to the motion and cross motions, and due deliberation having been had thereon, and upon the Opinion Per Curiam filed herein, it is unanimously,

Ordered that the petition is granted, the cross motions are denied, the determination of the Hearing Panel is confirmed, and respondent is disbarred and his name is stricken from the roll of attorneys and counselors-at-law in the State of New York, effective the date hereof, and it is further,

Ordered that respondent is commanded to desist and refrain from the practice of law in any form, either as principal or agent, clerk or employee of another; that respondent is forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority; that respondent is forbidden to give to another an opinion as to the law or its application or any advice in relation thereto. Respondent is directed to fully comply with the provisions of Title 22, Section 603.13, of the Rules of this Court, a copy of which is annexed hereto and made a part hereof.

ENTER:



Clerk